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Joseph R. Robinson

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EXAMINER

REYES, REGINALD R

ART UNIT

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3626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/643,885	Applicant(s) ROBINSON ET AL.	
	Examiner REGINALD REYES	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This office action is made Final. Claims 1-25 have been examined.

Response to Amendments/Arguments

2. The rejection of claim 18 under 35 USC § 112, 2nd paragraph is withdrawn in light of Applicant's amendment.
3. Applicant's arguments filed 10-17-2008 have been fully considered but they are not persuasive. Examiner disagrees with applicant's arguments. With respect to claim 1 Applicant argues that Suzuki does not teach a method for documenting home care services for providing reimbursement in the situation where a claimant has a relationship with a servicing entity, the claimant being cared for by a caregiver has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 3, 4, 5, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al (U.S. 5,986,568).
5. With respect to claim 1, Suzuki teaches a method for documenting home care services for providing reimbursement in the situation where a claimant has a relationship with a servicing entity, the claimant being cared for by a caregiver, the method comprising: a caregiver entering the home of a claimant; the caregiver interfacing with a data input portion, which is disposed in the home of the claimant, prior to providing a service to the claimant so as to input a first data set into the data input portion; the caregiver providing the service to the claimant; upon completion of the service, the caregiver again interfacing with the data input portion to identify completion of the service, the first data set constituting collected data; and transmitting the collected data to the servicing entity (see for example Suzuki column 9 lines 63-67 and column 10 lines 1-18 and Fig 1).
6. With respect to claim 2, Suzuki teaches the method of claim 1 (as described above). Suzuki further teaches wherein, upon completion of the service, the caregiver

Art Unit: 3626

again interfacing with the data input portion to identify completion of the service and so as to input a second data set into the data input portion, the first data set and the second data set constituting the collected data (see for example Suzuki column 7 lines 50-54).

7. With respect to claim 3, Suzuki teaches the method of claim 2 (as described above). Suzuki further teaches, wherein the second data set includes at least one of a caregiver code and service information (see for example Suzuki column 7 lines 55-59, column 9 lines 63 -65 and column 12 lines 52-58).

8. With respect to claim 4, Suzuki teaches the method of claim 1 (as described above). Suzuki further teaches wherein the first data set consists of a caregiver code (see for example Suzuki column 7 lines 55-62).

9. With respect to claim 5 Suzuki teaches the method of claim 1 (as described above). Suzuki teaches, wherein the first data set comprises at least one of a caregiver code, type of service information and hourly rate information (see for example Suzuki column 7 lines 55-62).

10. With respect to claim 6, Suzuki teaches the method of claim 1 (as described above). Suzuki further teaches, wherein the transmitting the collected data to the servicing entity is performed using a data processing entity, and wherein: the data

Art Unit: 3626

processing entity inputting the collected data from the data input portion; the data processing entity processing the collected data to generate processed collected data; and the data processing entity outputting the processed collected data to the servicing entity see for example Suzuki column 9 lines 63-67 and column 10 lines 1-27).

11. With respect to claim 7, Suzuki teaches the method of claim 1(as described above). Suzuki further teaches wherein the transmitting the collected data to the servicing entity is performed in real time (see for example Suzuki column 9 lines 22-39).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 8, 9, 13, 14, 15, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (U.S. 5,986,568).

13. With regards to claim 8, Suzuki teaches the method of claim 1 (as described above). Suzuki teaches data generated attributable to the care of a certain visiting nurse for a certain patient is collected from each PDA to a server device disposed in a visiting nursing station or the like by data communication or the like at appropriate timing so that date items are concentrically manages as a data base (see for example Suzuki column 7 lines 50-54). Therefore a predictable result would be transmitting the

Art Unit: 3626

collected data to the servicing entity is performed on a daily basis or hourly or as often as needed to update the database. KSR International Co. v. Teleflex Inc. et al., 82 USPQ2d 1385 (U.S. 2007).

14. With respect to claim 9, Suzuki teaches the method of claim 8 (as described above). Suzuki further teaches wherein the transmitting the collected data to the servicing entity is performed using a dial up connection (see for example Suzuki column 9 lines 22-33).

15. With respect to claim 13, Suzuki teaches the method of claim 1 (as described above). Suzuki teaches wherein the data input portion is disposed in the claimant's home for an extended period of time, so that the same data input portion is used by a plurality of caregivers (see for example Suzuki column 7 lines 20-23).

16. With respect to claims 14 and 15, Suzuki teaches the method of claim 13 as described above. Suzuki teaches data generated attributable to the care of a certain visiting nurse for a certain patient is collected from each PDA to a server device disposed in a visiting nursing station or the like by data communication or the like at appropriate timing so that data items are concentrically managed as a data base (see for example Suzuki column 7 lines 50-54). Therefore a predictable result would be further including mounting the data input portion on a wall or as a table top device in the

Art Unit: 3626

claimant's home. KSR International Co. v. Teleflex Inc. et al., 82 USPQ2d 1385 (U.S. 2007).

17. With respect to claim 16, Suzuki teaches the method of claim 1 (as described above). Therefore a predictable result would be wherein the method is performed in sequential order. KSR International Co. v. Teleflex Inc. et al., 82 USPQ2d 1385 (U.S. 2007).

18. With respect to claim 18, Suzuki teaches the method of claim 1 (as described above). Suzuki teaches home-based care operation is performed by rotating plural persons in charge; a person in charge takes a treatment at a visiting time while the person in charge refers to previous information on the patient accumulated by another person in charge (see for example Suzuki column 4 lines 47-50). Therefore a predictable result would be wherein the caregiver is a neighbor of the claimant, living proximate to the claimant. KSR International Co. v. Teleflex Inc. et al., 82 USPQ2d 1385 (U.S. 2007).

19. With respect to claim 19, Suzuki teaches the method of claim 1 (as described above). Suzuki teaches of the server device disposed in the visiting nursing station, but is not limited to this arrangement. The server device may be disposed in for example a home-base help supporting center, a hospital, a local self-governing body or the like.

Art Unit: 3626

Therefore a predictable result would be wherein the servicing entity is an insurance company. KSR International Co. v. Teleflex Inc. et al., 82 USPQ2d 1385 (U.S. 2007).

Claims 10, 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (U.S. 5,986,568) in view of von Kaenel et al (U.S. 7,107,285).

20. With respect to claim 10 and 24, Suzuki teaches the method of claim 1 (as described above). Suzuki does not teach wherein the first data set includes caregiver code, and further including, after transmitting the collected data to the servicing entity, the servicing entity determining the service type and the hourly rate based on the caregiver code. Von Kaenel et al teaches wherein the first data set includes caregiver code, and further including, after transmitting the collected data to the servicing entity, the servicing entity determining the service type and the hourly rate based on the caregiver code (see for example von Kaenel et al column 47 lines 7-18).

It would have been obvious to one of ordinary skill in the art at the time of application to combine the two features to make the billing system efficient.

21. With respect to claim 12, Suzuki teaches the method of claim 11 (as described above). Suzuki does not teach further including the servicing entity preparing and sending an invoice to at least one of the caregiver and the claimant, the invoice documenting information obtained by the servicing entity from the data input portion and the collected data. Von Kaenel et al does not teach further including the servicing entity preparing and sending an invoice to at least one of the caregiver and the

Art Unit: 3626

claimant, the invoice documenting information obtained by the servicing entity from the data input portion and the collected data (see for example von Kaenel et al column 46 lines 29-43).

It would have been obvious to one of ordinary skill in the art at the time of application to combine the two features to generate money from the service provided.

Claims 11, 20, 21, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (U.S. 5,986,568) in view of Guyan et al (U.S. 7,124,112).

22. With respect to claim 11, Suzuki teaches the method of claim 1 (as described above). Suzuki does not teach further including the servicing entity determining a reimbursement amount based on the collected data, the reimbursement amount being the amount of monies to be forwarded from the servicing entity to the claimant so that the claimant may be reimbursed for payments to the caregiver. Guyan et al teaches further including the servicing entity determining a reimbursement amount based on the collected data, the reimbursement amount being the amount of monies to be forwarded from the servicing entity to the claimant so that the claimant may be reimbursed for payments to the caregiver (see for example Guyan et al column 1 lines 43-50).

It would have been obvious to one of ordinary skill of the art at the time of application to combine both features as an alternate billing method.

23. With respect to claim 20, Suzuki teaches a system for documenting home care services for providing reimbursement in the situation where a claimant has a

Art Unit: 3626

relationship with a servicing entity, the claimant being cared for by a caregiver, the system comprising: a data input portion disposed in the home of the claimant, a caregiver entering the home of a claimant and interfacing with the data input portion prior to providing a service to the claimant so as to input a first data set into the data input portion, and upon completion of the service, the caregiver again interfacing with the data input portion to identify completion of the service and so as to input a second data set into the data input portion, the first data set and the second data set constituting collected data; (see for example Suzuki column 9 lines 63-67 and column 10 lines 1-18 and Fig 1). Suzuki does not teach a servicing entity the data input portion transmitting the collected data to the servicing entity, and the servicing entity effecting review of the collected data so as to provide reimbursement to the caregiver. Guyan teaches a servicing entity the data input portion transmitting the collected data to the servicing entity, and the servicing entity effecting review of the collected data so as to provide reimbursement to the caregiver (see for example Guyan et al column 1 lines 43-50).

It would have been obvious to one of ordinary skill of the art at the time of application to combine both features as an alternate billing method.

24. With regards to claim 21, Suzuki in view of Guyan et al teaches the system of claim 20 (as described above). Suzuki teaches further including: a data processing entity, the data processing entity inputting the collected data from the data input portion, the data processing entity processing the collected data to generate processed

Art Unit: 3626

collected data; and the data processing entity outputting the processed collected data to the servicing entity (see for example Suzuki column 7 lines 50-54).

25. With respect to claim 22, Suzuki in view of Guyan et al teaches the system of claim 21 (as described above). Suzuki teaches the visiting nurse transfers the visiting information previously inputted to the PDA 2 to the computer 5 from the PDA 2 by the predetermined data transfer means. Therefore a predictable result wherein the data processing entity outputs the processed collected data to the servicing entity using XML, HTML or other computer programs. KSR International Co. v. Teleflex Inc. et al., 82 USPQ2d 1385 (U.S. 2007).

26. With respect to claim 23, Suzuki in view of Guyan et al teaches the method of claim 20 (as described above). Suzuki teaches wherein the first data set consists of a caregiver code (see for example Suzuki column 7 lines 55-59, column 9 lines 63 -65 and column 12 lines 52-58).

27. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (U.S. 5,986,568) in view of Langen et al (U.S. 5,357,427).

With respect to claim 17, Suzuki teaches the method of claim 1 (as described above). Suzuki teaches wherein the first data set includes a caregiver code of the caregiver, and the method further including, after the caregiver has input second information indicating completion of the service (as described above). Suzuki teaches the caregiver inputting

Art Unit: 3626

a third data set (see for example Suzuki column 12 lines 66-67 and column 13 lines 1-10). Suzuki does not teach the third data set being entered prior to the caregiver beginning additional service for the claimant, and the third data set being associated with at least one of a different rate and type of service from the first data set. Langen teaches the third data set being entered prior to the caregiver beginning additional service for the claimant, and the third data set being associated with at least one of a different rate and type of service from the first data set (see for example Langen column 2 lines 19-22).

It would have been obvious to one of ordinary skill in the art at the time of application to combine both features to take better care of the patient.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (U.S. 5,986,568) in view of von Kaenel et al (U.S. 7,107,285) and in view of Guyan et al (U.S. 7,124,112).

28. With respect to claim 25, Suzuki in view of von Kaenel teaches the method of claim 24 (as described above). Suzuki in view of von Kaenel does not teach further including the servicing entity determining a reimbursement amount based on the collected data, the reimbursement amount being the amount of monies to be forwarded from the servicing entity to the claimant so that the claimant may be reimbursed for payments to the caregiver. Guyan et al teaches further including the servicing entity determining a reimbursement amount based on the collected data, the reimbursement amount being the amount of monies to be forwarded from the servicing entity to the

Art Unit: 3626

claimant so that the claimant may be reimbursed for payments to the caregiver (see for example Guyan et al column 1 lines 43-50).

It would have been obvious to one of ordinary skill of the art at the time of application to combine both features as an alternate billing method.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,963,136 teaches an interactive prescription compliance and life safety system.

U.S. Patent No. 4,838,275 teaches a home medical surveillance system.

U.S. Patent No. 6,302,844 teaches patient care delivery system.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3626

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINALD REYES whose telephone number is (571)270-5212. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. R./
Examiner, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626